

REMARKS

This is in full and timely response to the Restriction Requirement made in the Office Action mailed on September 1, 2006. Reexamination in light of the following remarks is respectfully requested.

Claims 23-29 are present in the above-identified application, with claim 23 being independent. *No new matter has been added.*

Restriction Requirement

The Restriction Requirement of September 1, 2006 asserts an existence of the following patentably distinct inventions:

- The Species of Figure(s) 4-5 versus that of Figure 6 versus Figures 7-9c v Figures 10 v 11 v 12a-13d v 14 v 15 v 16 v 17 v 18-19 v 20 v 21 v 22 v 23 v 24 v 25 v 28 v 29 v 30 v 31 v 32 v 33 v 38.

Election

The Applicant, through its representatives and attorneys, hereby provisionally elects, *WITH traverse*, the invention of the alleged species directed to *Figure 17*, having *claim 23-29* readable thereon.

At least for the following reasons, the Restriction Requirement made within the Office Action mailed on September 1, 2006 is respectfully *traversed*.

Traversal

Procedures within the U.S. Patent and Trademark Office dictate that *where species under a claimed genus are not connected in any of design, operation, or effect under the disclosure, the species are independent inventions*. M.P.E.P. §806.04(b).

Here, the Restriction Requirement fails to show that the features found within each of the Figures 17-25, 28-33 and 38 are not connected in any of design, operation, or effect under the disclosure.

Thus, the Restriction Requirement fails to show that the alleged species are independent inventions.

Moreover, M.P.E.P. §806.04(b) further instructs that *where inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to election of species and the practice applicable to other types of restrictions such as those covered in M.P.E.P. §§806.05 - 806.05(j)*.

Here, the Restriction Requirement and Office Communication fail to determine the question of restriction by both the practice applicable to election of species and the practice applicable to other types of restrictions such as those covered in M.P.E.P. §§806.05 - 806.05(j).

Finally, practice and procedures within the U.S. Patent and Trademark Office dictate that *if restriction is improper under either practice, it should not be required*. M.P.E.P. §806.04(b).

Thus, the Restriction Requirement should not be required at least for these reasons.

Withdrawal of this Restriction Requirement and examination of all pending claims is respectfully requested.

Accordingly, withdrawal of this restriction requirement and examination of all pending claims is respectfully requested. Otherwise, rejoinder of the remaining alleged inventions upon the allowance of the linking claim 6 is respectfully requested. M.P.E.P. §809.

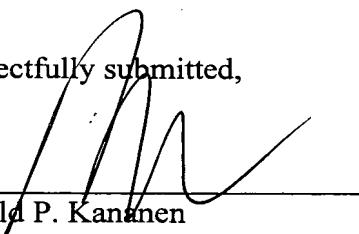
An early Action on the merits of this application is additionally respectfully requested.

Conclusion

Applicant believes no fee is due with this response. If any fee is required or any overpayment made, the Commissioner is hereby authorized to charge the fee or credit the overpayment to Deposit Account # 18-0013.

Dated: November 1, 2006

Respectfully submitted,

By 
Ronald P. Kananen
Registration No.: 24,104
RAJER, FISHMAN & GRAUER PLLC
Correspondence Customer Number: 23353
Attorney for Applicant